

# HOUSE BILL 3

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EMERGENCY BILL

3lr3527

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By: **Delegate Kramer**

Introduced and read first time: August 10, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Civil Action – Liability for Damages Caused by Dog**

3 FOR the purpose of establishing that, in a civil action for damages for serious personal  
4 injury or death caused by a dog, an owner of the dog is liable under certain  
5 circumstances; providing that, in a certain civil action for damages caused by a  
6 dog, the common law that applied on a certain date shall be retained under  
7 certain circumstances; providing for the construction and application of this Act;  
8 stating the intent of the General Assembly to abrogate under certain  
9 circumstances the holding by the Court of Appeals in a certain case; defining  
10 certain terms; making this Act an emergency measure; and generally relating to  
11 civil liability for certain damages caused by a dog.

12 BY adding to

13 Article – Courts and Judicial Proceedings

14 Section 3–1901 through 3–1905 to be under the new subtitle “Subtitle 19.

15 Liability for Damages Caused by Dog”

16 Annotated Code of Maryland

17 (2006 Replacement Volume and 2011 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Courts and Judicial Proceedings**

21 **SUBTITLE 19. LIABILITY FOR DAMAGES CAUSED BY DOG.**

22 **3–1901.**

23 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
24 **INDICATED.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(B) (1) “OWNER OF A DOG” MEANS A PERSON WHO HAS A PROPERTY**  
2 **RIGHT IN A DOG OR KEEPS OR HARBORS A DOG.**

3           **(2) “OWNER OF A DOG” INCLUDES A CUSTODIAL PARENT OR**  
4 **GUARDIAN OF A MINOR WHO IS AN OWNER OF A DOG.**

5           **(3) “OWNER OF A DOG” DOES NOT INCLUDE A VETERINARY**  
6 **HOSPITAL, COMMERCIAL KENNEL, OR PET SHOP, OR AN EMPLOYEE OF A**  
7 **VETERINARY HOSPITAL, COMMERCIAL KENNEL, OR PET SHOP, AS TO A DOG**  
8 **BEING TREATED, BOARDED, OR OFFERED FOR SALE.**

9           **(C) “SERIOUS PERSONAL INJURY” MEANS AN INJURY THAT:**

10           **(1) CREATES A SUBSTANTIAL RISK OF DEATH;**

11           **(2) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED**  
12 **DISFIGUREMENT;**

13           **(3) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED**  
14 **LOSS OF FUNCTION OF ANY BODY PART, ORGAN, OR MENTAL FACULTY; OR**

15           **(4) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED**  
16 **IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN.**

17 **3-1902.**

18           **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OR (C) OF THIS SECTION,**  
19 **AN OWNER OF A DOG IS LIABLE FOR DAMAGES FOR SERIOUS PERSONAL INJURY**  
20 **OR DEATH OF AN INDIVIDUAL CAUSED BY THE DOG, REGARDLESS OF WHETHER**  
21 **THE DOG HAS SHOWN ANY VICIOUS OR DANGEROUS PROPENSITIES OR**  
22 **WHETHER THE OWNER KNEW OR SHOULD HAVE KNOWN OF THE DOG’S VICIOUS**  
23 **OR DANGEROUS PROPENSITIES.**

24           **(B) AN OWNER OF A DOG IS NOT LIABLE UNDER THIS SECTION IF THE**  
25 **INDIVIDUAL IS AT LEAST 7 YEARS OLD AND SUFFERED SERIOUS PERSONAL**  
26 **INJURY OR DEATH:**

27           **(1) AS A RESULT OF THE INDIVIDUAL’S CONTRIBUTORY**  
28 **NEGLIGENCE;**

29           **(2) AS A RESULT OF THE INDIVIDUAL’S INTENTIONAL**  
30 **PROVOCATION OF THE DOG; OR**

1           **(3) AS A RESULT OF COMMITTING OR ATTEMPTING TO COMMIT A**  
2 **CRIMINAL TRESPASS OR OTHER CRIMINAL OFFENSE ON THE REAL PROPERTY**  
3 **OF THE OWNER OF THE DOG.**

4           **(C) AN OWNER OF A DOG IS NOT LIABLE UNDER THIS SECTION IF:**

5           **(1) THE DOG WAS BEING USED BY AN EMPLOYEE OF A**  
6 **GOVERNMENTAL UNIT IN MILITARY OR POLICE WORK;**

7           **(2) THE INDIVIDUAL WAS A PARTY TO OR PARTICIPANT IN, OR**  
8 **SUSPECTED OF BEING A PARTY TO OR PARTICIPANT IN, AN ACT OR CONDUCT**  
9 **THAT PROMPTED THE USE OF THE DOG IN MILITARY OR POLICE WORK; AND**

10           **(3) THE EMPLOYEE WAS COMPLYING WITH A WRITTEN POLICY**  
11 **ADOPTED BY THE GOVERNMENTAL UNIT ON THE NECESSARY AND APPROPRIATE**  
12 **USE OF A DOG IN MILITARY OR POLICE WORK AND THE SERIOUS PERSONAL**  
13 **INJURY OR DEATH OCCURRED AS A RESULT OF THE REASONABLE USE OF**  
14 **FORCE.**

15 **3-1903.**

16           **(A) THIS SECTION DOES NOT APPLY TO AN OWNER OF A DOG THAT**  
17 **CAUSES PERSONAL INJURY, SERIOUS PERSONAL INJURY, OR A DEATH.**

18           **(B) IN A CIVIL ACTION AGAINST AN OWNER OF REAL PROPERTY OR**  
19 **OTHER PERSON WHO HAS THE RIGHT TO CONTROL THE PRESENCE OF A DOG ON**  
20 **THE REAL PROPERTY, INCLUDING A LANDLORD, FOR DAMAGES FOR PERSONAL**  
21 **INJURY, SERIOUS PERSONAL INJURY, OR DEATH CAUSED BY A DOG, THE**  
22 **COMMON LAW THAT APPLIED ON JANUARY 1, 2012, TO A CIVIL ACTION FOR**  
23 **DAMAGES CAUSED BY A DOG SHALL BE RETAINED.**

24 **3-1904.**

25           **(A) THIS SECTION DOES NOT APPLY TO AN OWNER OF A DOG THAT**  
26 **CAUSES SERIOUS PERSONAL INJURY OR DEATH.**

27           **(B) IN A CIVIL ACTION AGAINST AN OWNER OF A DOG FOR DAMAGES FOR**  
28 **PERSONAL INJURY CAUSED BY A DOG, THE COMMON LAW THAT APPLIED ON**  
29 **JANUARY 1, 2012, TO A CIVIL ACTION FOR DAMAGES CAUSED BY A DOG SHALL**  
30 **BE RETAINED.**

31 **3-1905.**

1           **THIS SUBTITLE DOES NOT AFFECT:**

2                   **(1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION;**  
3 **OR**

4                   **(2) ANY OTHER COMMON LAW OR STATUTORY DEFENSE OR**  
5 **IMMUNITY.**

6           SECTION 2. AND BE IT FURTHER ENACTED, That, subject to Section 3 of  
7 this Act, it is the intent of the General Assembly that this Act abrogate the holding of  
8 the Court of Appeals in Tracey v. Solesky, No. 53, September Term 2011.

9           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be  
10 construed to apply only prospectively and may not be applied or interpreted to have  
11 any effect on or application to any cause of action arising before the effective date of  
12 this Act.

13           SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
14 measure, is necessary for the immediate preservation of the public health or safety,  
15 has been passed by a yea and nay vote supported by three-fifths of all the members  
16 elected to each of the two Houses of the General Assembly, and shall take effect from  
17 the date it is enacted.